



EB-2011-0273

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an application by Grimsby
Power Inc. for an order approving or fixing just and
reasonable rates and other charges for the distribution of
electricity to be effective January 1, 2012.

BEFORE: Marika Hare
Presiding Member

Cathy Spoel
Member

DECISION AND ORDER

BACKGROUND

Grimsby Power Inc. (“Grimsby” or the “Applicant”) filed a cost of service application (the “Application”) with the Ontario Energy Board (the “Board”) on August 16, 2011. The Application was filed under section 78 of the *Ontario Energy Board Act, 1998* (the “Act”), seeking approval for changes to the rates that Grimsby charges for electricity distribution to be effective January 1, 2012. The Board assigned the Application file number EB-2011-0273.

The Proceeding

The Board issued a Notice of Application and Hearing on August 30, 2011. Energy Probe Research Foundation (“Energy Probe”), School Energy Coalition (“SEC”) and Vulnerable Energy Consumers Coalition (“VECC”) applied for intervenor status and cost eligibility. No objections were received regarding the requests for intervenor status and cost eligibility, and the Board approved all requests.

In Procedural Order No. 1, issued on September 21, 2011, the Board established a schedule for interrogatories and responses, a technical conference, a settlement conference and an oral hearing for any unsettled issues.

In Procedural Order No. 2, issued on October 27, 2011, the Board granted an extension to Grimsby following its request for a delay in filing responses to interrogatories.

The facilitated settlement conference on all issues was held on November 23 and 24, 2011. Energy Probe, SEC and VECC participated in the settlement conference. A Settlement Agreement, which incorporated settlement of many issues, was filed with the Board on December 7, 2011.

A Decision and Procedural Order No. 3 was issued on December 9, 2011 in which the Board accepted the Settlement Agreement. The Settlement Agreement represented a comprehensive settlement with one unsettled matter, that being Operations, Maintenance & Administration expenses. An oral hearing was held on December 12, 2011 to examine the unsettled matter and Grimsby submitted its oral argument-in-chief (“AIC”) at the hearing.

Intervenors and Board staff filed their written submissions on December 16, 2011. Reply argument was filed by Grimsby on December 20, 2011.

The Board’s findings with respect to the unsettled matter are set out below. Grimsby’s proposed rates are based on Modified International Financial Reporting Standards (“MIFRS”). Grimsby detailed its supporting evidence in its Application on a Canadian Generally Accepted Accounting Principles (“CGAAP”) basis, and included in the evidence the conversion from CGAAP results to MIFRS. Unless otherwise noted, the references below are on a CGAAP basis.

OPERATIONS, MAINTENANCE & ADMINISTRATION (“OM&A”)

Grimsby originally requested \$2,459,977 (including property taxes) for its 2012 OM&A expenses. In its AIC, Grimsby updated its 2012 OM&A to \$2,375,758¹ to reflect certain adjustments.

In its reply argument, Grimsby further adjusted its 2012 OM&A to \$2,350,586 to reflect the adjustments made in responses to undertakings.

The following table summarizes Grimsby’s OM&A expenses.

	2006 Approved	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Actual	2011 Bridge	2012 Test (updated) ²
Operation	\$207,528	\$187,438	\$187,089	\$200,472	\$197,350	\$179,324	\$271,866	\$272,481
Maintenance	\$219,107	\$225,316	\$271,420	\$409,935	\$380,246	\$397,852	\$418,385	\$489,114
Billing and Collecting	\$399,757	\$407,642	\$483,317	\$487,755	\$463,965	\$506,789	\$504,524	\$509,031
Community Relations	\$5,388	\$53,288	\$80,754	\$33,426	\$11,428	\$11,749	\$16,500	\$12,500
Administrative and General	\$719,186	\$635,882	\$695,452	\$661,546	\$717,486	\$710,002	\$869,244	\$1,067,460
Total OM&A	\$1,550,966	\$1,509,565	\$1,718,034	\$1,793,136	\$1,770,474	\$1,805,717	\$2,080,519	\$2,350,586
Year to year % change			13.8%	4.4%	-1.3%	2.0%	15.2%	13.0%

Grimsby gave evidence, in its filed evidence and again at the oral hearing, that its OM&A ‘cost per customer’ comparison, based on 2010 statistics, indicates that it has the lowest cost per customer in its cohort. Grimsby also stressed, however, that the company’s low spending levels were not sustainable, stating that the objective of its “2012 budget was to identify tasks, activities and service levels which would allow Grimsby Power to operate at a sustainable level.”³ In the words of its CEO, “the resetting of OM&A is viewed by Grimsby as a necessary step to bring the utility up to par with what I consider to be the basic needs of the company.”⁴ Grimsby acknowledged that while the “resultant increase in costs is significant ... it represents an

¹ Tr. Vol.1, page 83/ line 27-28.

² Grimsby’s reply argument, page 4.

³ Tr. Vol.1, page 23/ line 27 – page 24/ line 1.

⁴ Tr. Vol.1, page 23/ lines 15-17.

accurate accounting of where Grimsby Power needs to be, provided that the utility environment is stable through the next four years.”⁵

Total OM&A

The intervenors each took a position that the applicant’s proposed 2012 OM&A expenses were too high and they each argued for reductions on an envelope basis. The test year OM&A expenses proposed by the intervenors ranged from \$2,206,692 to \$2,258,372.⁶

Energy Probe noted that the annual compound growth in actual OM&A costs between 2006 and 2010 was 4.6%; however, the requested level of \$2,375,758 of 2012 OM&A, represents a 31.6% increase over the last year of actual data (2010). Energy Probe observed that this is substantially in excess of the increases in recent years.

Energy Probe submitted that Grimsby’s historical and forecast OM&A follow a similar trajectory to Burlington Hydro Inc. (“Burlington”), Hydro One Brampton Networks Inc. (“Brampton”) and Horizon Utilities Corporation (“Horizon”). Energy Probe graphed OM&A in its submission and illustrated slow and steady increases in OM&A in the historical years, but significant increases in bridge and test years for most.

Energy Probe noted that, in these cases, the Board approved lower OM&A levels and found that the forecasts were not warranted based on customer growth, inflation and prevailing conditions. Based on analysis of the Burlington and Brampton decisions, and the Board’s continued expectations regarding cost control, Energy Probe submitted the Board should approve a 10% increase in OM&A between 2010 and 2012.

Energy Probe further submitted that unlike the Burlington and Brampton decisions, additional adjustments should be made to Grimsby’s 2010 OM&A before the application of the 10% increase. The adjustments are for compensation for the CEO who was hired in February 2010 and for capitalization changes which were implemented in 2011. Energy Probe calculated that the application of the 10% increase to the adjusted 2010 OM&A amount would result in 2012 OM&A expenses of \$2,151,091. Energy Probe also noted that since there are new costs related the LEAP and smart meters in 2012 that

⁵ Tr. Vol.1, page 24/ lines 2-5.

⁶ Intervenors’ submissions are based on the requested OM&A level of \$2,375,758 on a CGAAP basis as stated in AIC.

did not exist in 2010, these new costs should be included in the revenue requirement calculation. As a result, the 2012 OM&A expenses proposed by Energy Probe is \$2,206,692.

VECC observed that the increase in OM&A costs generally follow two cost drivers: inflation and customer growth. VECC stated that 2% per annum growth is a reasonable assumption for inflation as opposed to the annual (2006 to 2010) compound growth rate of the Canada consumer price index of 1.65% and is consistent with GDP IPI inflation figures used by the Board in IRM applications. Based on the growth between 2010 and 2012, VECC submitted a reasonable customer growth rate for the two years is 4%. VECC also submitted that changes in capitalization policy and the inclusion of two new FTEs in 2011 and 2012 are reasonable. Accordingly, VECC submitted that an overall 2012 OM&A expense of \$2,232,873 is appropriate.

SEC stated that the proposed increase, if approved, would be much more than the Board had ordered for any other utility. In its evidence, Grimsby indicated that its OM&A per customer comparison between its utility and others in its cohort showed its low spending. Noting this, SEC argued that a utility should not be free to cut back on spending in IRM years, in order to maximize ROE and catch up with an increased budget in the rebasing year. SEC further stated that some part of the increase in OM&A is spending that should have been incurred in prior years, funded by the rates already paid by ratepayers in those prior years. SEC stated that the Board could reach the optimal result simply by excluding \$117,386 in "miscellaneous" increases from OM&A, since this amount has not been properly explained. SEC submitted that based on an envelope approach, the OM&A for 2012 should be set at \$2,258,372, and rates should be established on that basis.

Board staff stated that the proposed 2012 OM&A represented an annual average increase of approximately 8.9% as compared to 2006 Board approved OM&A. The 2010 OM&A level represented an annual average increase of 4.1% as compared to 2006 approved level. Board staff submitted that if the Board reduced Grimsby's OM&A for compensation and costs related to the third party service providers, the reduced 2012 OM&A would represent an annual increase of approximately 6.5% since 2006.

In its reply argument, Grimsby stated that it had prepared its evidence according to the Board's filing requirements, "to enable the Board to make a determination as to whether

the proposed rates are just and reasonable”.⁷ Throughout the proceeding, Grimsby had agreed to various corrections to the evidence as proposed by intervenors and Board staff. Grimsby submitted that the resultant OM&A cost of \$2,350,586 is just and reasonable and should not be arbitrarily reduced further in order to conform to a range of increases approved in other cases.

Grimsby further stated that comparison with other utilities as suggested by various parties is not appropriate, since the cost pressures faced by Grimsby have no relationship to those of other utilities.

Components of OM&A

In support of the envelope proposals described above, several parties proposed specific reductions which are discussed below.

Human Resource Consultant

Grimsby has budgeted professional services to assist with collective bargaining and compensation reviews. Grimsby included \$26,880 in its 2012 OM&A for costs related to a third party Human Resource consultant to conduct such services. Board staff commented that this cost should not be constituted as an ongoing cost since the activities related to bargaining and compensation reviews would not necessarily take place every year; and submitted that this cost should be amortized over a four-year period. Energy Probe agreed with Board staff and indicated that the cost should therefore be reduced by \$20,160. VECC believed that this cost would not be spent after 2012 and proposed a reduction of 50% to reflect its non-recurring nature.

Grimsby replied that it has described its specific needs for the Human Resource consultant in 2012. Since Grimsby has not begun the planning for 2013 and beyond, it would be punitive to set the cost for each year at 25% of the 2012 cost.

Training

Grimsby forecasted an increase in its 2012 training program leading to a total of \$49,199 in its 2012 OM&A budget, which would include attendance at conferences,

⁷ Chapter 2 of the Board's Filing Requirements for Transmission and Distribution Applications, page 3.

workshops and executive education sessions. Board staff expressed no concerns with this cost. Energy Probe submitted that the level of 2011 training costs should be sufficient for the 2012 test year given the actual number of employees at Grimsby and consequently submitted that the 2012 budget should be reduced by \$15,000. VECC stated that the 2010 actual training costs were \$15,970, significantly lower than the proposed amount of \$49,199 for 2012. VECC submitted that Grimsby could reduce the proposed training costs by at least 50%.

In its reply argument, Grimsby stated that its evidence represented a sustainable level of training and education for its employees. Grimsby noted that in its response to undertaking J1.4, Grimsby had corrected the training costs by excluding salary, wages, and payroll burden and that result is consistent with the proposal by Energy Probe.

Network Security Audit

In its evidence, Grimsby stated that it has an internal network of computer servers and associated work stations; however it has never conducted a network security audit. Hence Grimsby forecasted \$10,000 for the network security audit in its 2012 OM&A budget. In its submission, Energy Probe stated that this cost should be amortized over 4 years as it is not an annual expense. As a result, \$7,500 should be reduced from the 2012 OM&A costs.

Grimsby replied that the audit would identify the areas of risk that the company would need to address; therefore, it anticipated that expenses would be required to address the findings of the audit. For that reason, Grimsby submitted that these expenses would be required on an ongoing basis.

CIS related costs

Energy Probe stated that Grimsby had provided justification for the increase related to the CIS costs for 2009 and 2010; however no justification had been provided for the \$6,000 increase in 2011 and 2012. Energy Probe submitted that this increase should be disallowed.

In reply, Grimsby explained that in order to accommodate new TOU rates, new reporting requirements and billing of renewable energy providers the additional cost is required to modify its CIS systems.

Process Meter Data

In its evidence, Grimsby stated that the incremental cost is to provide a consolidated end-to-end solution to process meter data. In response to undertaking J1.3, Grimsby changed the incremental increase for this cost from \$46,000 to \$37,740.

Energy Probe stated that this initiative would necessarily redirect some internal resources, but there was no evidence on where or how this would be done. Energy Probe submitted that one-half of the increase of \$37,740 should be disallowed by the Board. VECC stated that the response to undertaking J1.3 noted that this initiative would replace Grimsby's internal labour functions and labour savings of \$52,255 were identified by the Applicant. As a result, VECC submitted that an equivalent reduction in costs should be directed.

Grimsby replied that VECC had misinterpreted the value of \$52,255 as being the total amount of the internal labour assigned to the process meter data function. Grimsby explained that the labour component only represented part of the cost, not the total cost. Hence Grimsby disagreed with VECC's proposal and submitted that the incremental amount of \$37,740 is appropriate and supported by evidence. In response to Energy Probe's submission, Grimsby stated that the answer to undertaking J1.3 had accurately reflected the incremental cost to for this end-to-end solution.

Compensation

In its application, Grimsby proposed an increase of two FTEEs, a Line Maintainer and an Accounting Assistant. Board staff noted that by hiring the additional Line Maintainer, Grimsby stated that it would reduce its spending on line contracts by one full time equivalent lineman. Board staff requested Grimsby to identify the reductions in its reply argument. Grimsby replied that it could not quantify the impacts of this position into separate OM&A and capital cost components. However, it emphasized the importance of this position.

Board staff also noted that Grimsby proposed to mitigate the risk of instability in the Finance Department by hiring an Accounting Assistant. Board staff requested that Grimsby provide clarification of the needs of this position since, as stated in the evidence, a Director of Finance had been hired and already brought the much needed stability. In its reply argument, Grimsby explained that the stability was achieved by

hiring the Accounting Assistant and its role is to perform the day to day accounting functions of the business. Grimsby submitted that this additional position is just and reasonable.

BOARD FINDINGS

While the percentage increase in OM&A proposed by Grimsby for 2012 is considerably higher than its historical level, the Board finds the evidence compelling to justify a significant increase in OM&A. Grimsby has proven its case for the increase in staff and additional funds to enable the utility to operate in a sustainable manner and to adopt standard utility practices, which were found to be previously lacking.⁸ The Board accepts that there are needs to be addressed as identified by Grimsby.

The Board notes that while Grimsby's situation is unusual, its requested relief is not unreasonable. The utility has achieved an extraordinarily low OM&A cost per customer, but it has done so by foregoing certain basic needs of the company during a period of internal change, in terms of both its management and regulatory functions. The Board accepts that a resetting of OM&A expenses for 2012 is appropriate in order to bring Grimsby's operations, maintenance and administration practices closer to the established basic practices of other utilities.

The Board considers the comparisons to Burlington and Brampton to be informative; however these do not provide good comparators to Grimsby, a small utility that has been operating in a very lean manner, on an average OM&A per customer basis, and that has not rebased since 2006. As pointed out by Energy Probe, simply applying a 3% adjustment year over year to the OM&A cost per customer yields a result which is too low based on the needs of the utility. The other issue unique to a small utility is that percentage increases can appear large, when the dollar value is not. For example, the addition of two staff members increases the percentage in total compensation considerably in the case of Grimsby. Yet an increase in two staff members for the utility, appears reasonable to the Board. These small swings in dollar increases do not result in the same percentage increases for utilities such as Burlington or Brampton.

The Board has determined that the forecast 2012 OM&A will be \$2.275 million.

⁸ Tr. Vol.1, page 17/ lines 1 to 28.

The Board's conclusion will result in a reduction in OM&A of approximately \$75,000 from the amount proposed in Grimsby's reply argument. The reduction reflects the consideration of the following items:

- One time costs related to Human Resource consultant and Network Security Audit should be amortized over a four-year period;
- The proposed increase in training costs appears excessive and should be reduced; and
- There is no apparent reduction to line contractor costs that will occur as a result of the hiring of the additional Line Maintainer.

The Board finds that this is a significant increase (approximately 26% over 2010 actuals), but one necessary to ensure the appropriate operations of the distributor. As stated previously, the Board agrees that additional staffs are required, and also agrees that adequate and ongoing training is required. The Board will not stipulate where the reductions are to occur. This envelope approach is consistent with previous decisions which allow the distributor to effectively manage its operations. In the absence of a renewed framework, the Board encourages Grimsby to stay on a regular cycle of cost of service adjustments followed by 3 years of IRM.

EFFECTIVE DATE

Grimsby applied for rates effective January 1, 2012. The Settlement Agreement approved by the Board on December 9, 2011 stated that the participating parties agreed that rates be effective January 1, 2012.

In the event that rates cannot be implemented for the month of January, Grimsby requested that the Board approve a rate rider to recover foregone revenue.

BOARD FINDINGS

The Board approved Grimsby's new rates to be effective January 1, 2012 as part of the Settlement Agreement. The Board has also determined that the implementation date will be March 1, 2012.

The Board approves the recovery of forgone revenue for the stub period of January 1, 2012 to the implementation date. Accordingly, Grimsby is directed to calculate class

specific volumetric rate riders that would either refund or recover from customers this stub period amount over a period of 10 months. In the event that bill impacts are unreasonably high, Grimsby may also submit a 22 month recovery scenario for the Board to consider.

RURAL OR REMOTE ELECTRICITY RATE PROTECTION

On December 21, 2011, the Board issued a Decision with Reasons and Rate Order (EB-2011-0405) establishing the Rural or Remote Electricity Rate Protection (“RRRP”) benefit and charge for 2012. The Board amended the RRRP charge to be collected by the Independent Electricity System Operator from the current \$0.0013 per kWh to \$0.0011 per kWh effective May 1, 2012. The final Tariff of Rates and Charges flowing from this Decision will reflect the new RRRP charge.

IMPLEMENTATION

The Board has made findings in this Decision which change the 2012 revenue requirement and therefore change the distribution rates from those proposed by Grimsby. In filing its draft Rate Order, the Board expects Grimsby to file detailed supporting material, including all relevant calculations showing the impact of the Settlement Agreement and this Decision on Grimsby’s revenue requirement, the allocation of the approved revenue requirement to the classes and the determination of the final rates. Supporting documentation shall include, but not be limited to, filing a completed version of the Revenue Requirement Work Form excel spreadsheet, which can be found on the Board’s website.

A Rate Order will be issued after the steps set out below are completed.

1. Grimsby shall file with the Board, and shall also forward to intervenors, a draft Rate Order attaching a proposed Tariff of Rates and Charges reflecting the Board’s findings in this Decision within **7 days** of the date of the issuance of this Decision. The draft Rate Order shall also include customer rate impacts and detailed supporting information showing the calculation of the final rates including the Revenue Requirement Work Form in Microsoft Excel format.

2. Board staff and intervenors shall file any comments on the draft Rate Order with the Board and forward to Grimsby within **7 days** of the date of filing of the draft Rate Order.
3. Grimsby shall file with the Board and forward to intervenors responses to any comments on its draft Rate Order within **4 days** of the date of receipt of Board staff and intervenor comments.

COST AWARDS

The Board may grant cost awards to eligible parties pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

1. Intervenors shall file with the Board and forward to Grimsby their respective cost claims within **7 days** from the date of issuance of the final Rate Order.
2. Grimsby shall file with the Board and forward to intervenors any objections to the claimed costs within **14 days** from the date of issuance of the final Rate Order.
3. Intervenors shall file with the Board and forward to Grimsby any responses to any objections for cost claims within **21 days** of the date of issuance of the final Rate Order.
4. Grimsby shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

All filings with the Board must quote the file number EB-2011-0273, and be made through the Board's web portal at www.errr.ontarioenergyboard.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Parties should use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available, parties may e-mail their documents to the attention of the Board Secretary at BoardSec@ontarioenergyboard.ca. All other filings not filed via the Board's web

portal should be filed in accordance with the Board's *Practice Directions on Cost Awards*.

DATED at Toronto, January 16, 2012

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary